

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CLARENCE DELANEY, JR.,

Plaintiff,

-v-

No. 9:13-CV-0648
(DNH/TWD)

DR. ZAKI; DR. S. RAMINENI;
M. CZERWINSKI; BRANDON J. SMITH; and
DR. CARL KOENIGSMANN,

Defendants.

APPEARANCES:

OF COUNSEL:

CLARENCE DELANEY, JR.
Plaintiff pro se
12-A-4898
Fishkill Correctional Facility
P.O. Box 1245
Beacon, NY 12508

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Attorney for Defendants
The Capitol
Albany, NY 12224

RACHEL M. KISH, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Clarence Delaney, Jr. brought this civil rights action pursuant to 42 U.S.C. § 1983. On September 2, 2014, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) be granted

and that plaintiff be granted leave to amend. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

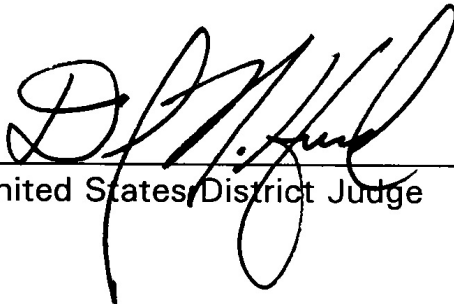
ORDERED that

1. Defendants' motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) is GRANTED and the complaint is DISMISSED;

2. Plaintiff is granted leave to file an amended complaint within thirty (30) days of the date of this Decision and Order to address the deficiencies identified in the Report-Recommendation. If plaintiff submits an amended complaint, he is encouraged to describe the acts of misconduct alleged therein and identify each individual who participated in the misconduct. Plaintiff is further advised that any amended complaint will completely replace the prior complaint in this action. Therefore, he should set forth all of his claims against each of the defendants in a manner that complies with the requirements of the Federal Rules of Civil Procedure and the Report-Recommendation. No portion of the prior complaint shall be incorporated into the amended complaint by reference. Plaintiff is cautioned that, if he fails to file an amended complaint that states a claim upon which relief can be granted by October 30, 2014, judgment will be entered and this case will be closed without further order; and

3. The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.



United States District Judge

Dated: September 30, 2014
Utica, New York.